

CHAPTER 16.42

Regulations for Dedication of Land and/or Payment of Fees for Public Park Land in Subdivisions

16.42.010 Intent.

This Section is intended to provide adequate sites for the location of public park land necessitated by the impacts created by new development. Such sites may be dedicated to the City or a homeowner's association for eventual construction and maintenance. The intent is to require appropriate mitigation in proportion to the impacts being created by new development. It is further the intent of this Section to have dedicated park land as the highest priority although a cash-in-lieu process is identified. An annexation agreement and/or developer's agreement, when appropriate, will outline the specific requirements pertaining to this Section and specifics as to land dedication and/or cash-in-lieu for land. This Section is in addition to park development impact fees, of which said fees are to be used for the design and construction of park lands. (Ord. 370-06; Ord. 111-01; Ord. 045-00)

16.42.020 General requirements.

The developer shall provide, at no cost to the City, for the construction of all roads adjacent to the park area being platted in conformance with the Comprehensive Plan, including all roads adjoining publicly dedicated park sites, traffic signalization to serve the site, extensions of all utilities to the site and other public infrastructure as required by the City Council. Security needed to ensure such improvements shall be required prior to the issuance of any building permits. All park and trail development and facilities shall conform to the standards and criteria as outlined in the City of Evans Parks, Trails and Recreation Master Plan, as amended.

A. Parks, trails and open land. Whenever land is proposed for residential subdividing, or if land is replatted which would add to, or change, the original residential impact, the developer shall provide land or cash-in-lieu of land for active and specialized recreation generated by the proposed use. In general, these lands shall be suitable for the development of active play areas, trails or in some instances to serve to preserve unique land forms or natural areas. Where no suitable land is available in a development, cash-in-lieu of land or the equivalent monetary value or the donation of recreation facilities may be substituted at the City's discretion. Additional dedication for open land may be required by the City if deemed necessary to preserve areas of special significance.

1. The following formula is used to calculate the minimum amount of land dedication required in residential developments by the City, which is deemed necessary to provide adequate land for parks. This formula is based upon a total of six and one-quarter (6.25) acres of developed park land per one thousand (1,000) population as recommended in the City of Evans Parks, Trails and Recreation Master Plan. Furthermore, for purposes of population impact, each residential unit is assumed to house an average of two and nine-tenths (2.9) individuals per unit (2000 U.S. Census figures).

3.5 ac of neighborhood with a minimum size of 6.0 acres or 2.75 ac of community parks with a minimum size of 25.0 acres:

Neighborhood Park = Dwelling units x 0.010 acres/unit

Community Park = Dwelling units x 0.0080 acres/unit

B. The City reserves the right to adjust the acreage requirement between neighborhood and community park categories as deemed necessary to meet specific needs and to determine the amount of developed park acreage required based upon recommendations by the Parks and Recreation Department/Commission.

1. Within nonresidential developments (commercial, industrial, etc.) provision of park facilities is encouraged.

2. For the purposes of calculating the required dedication, existing dwelling units within a subdivision shall be excluded from the calculation of the park requirement.

3. Land proposed for park dedication shall be clearly identified on any submitted plat including the number of acres for each site and the total acreage proposed for City park dedication within the project.

4. The conveyance of dedicated park land to the City shall be by general warranty deed and title commitment and the title shall be free and clear of all liens and encumbrances, including real property taxes completed to the time of conveyance. Dedicated park land shall include the necessary water rights or other available water service to provide for irrigation and drinking water. Community and neighborhood park land shall be conveyed at the time of recordation of the final plat for the area served by the community and neighborhood parks as defined in the City of Evans Parks, Trails and Recreation Master Plan.

5. The City shall assume all responsibility for development of all land dedicated for parks and trails, unless otherwise determined by the City and the developer. If the developer elects to develop the park, a park site master plan, as designed by a professional landscape architect, shall be submitted to the City for approval prior to the time of final plat submittal and will be identified in a developer's agreement. Upon approval of the park plan by the City, cost estimates and construction documents shall be submitted along with all other necessary information for construction. The park site shall be constructed in accordance with City standards and specifications and as outlined in an approved developer's agreement. In addition, the developer shall provide to the City a letter of credit until all of the improvements are completed. (Ord. 370-06; Ord. 111-01; Ord. 045-00)

16.42.030 Cash-in-lieu.

Cash-in-lieu for off-site land dedication may be used in cases in which the cash value of park land dedication and park development costs is deemed, by the City, to be more appropriate in satisfying the needs of the residents of the proposed development. Such cases include, but are not limited to, small developments not able to meet the minimum size requirement and developments which already have adjacent facilities that could be expanded to satisfy the need created by the proposed development. In those subdivisions where proposed regional trails are located, no cash-in-lieu of land will be accepted unless there is an acceptable alternate route, as determined by the City, which is compatible with the City of Evans Parks, Trails and Recreation Master Plan.

A. The cash-in-lieu for land dedication and park development costs fee shall be determined by the following process:

1. The City Parks and Recreation Department shall review all cash-in-lieu for land and recommend a course of action to the Building Division prior to the issuance of any building permits.

2. The City shall make a final determination of the method in which the dedication requirements shall be satisfied.

3. When cash-in-lieu for land dedication and park development costs is requested by the City, the following formula shall be used:

$$\frac{\text{Total acreage for dedication as cash-in-lieu}}{\text{\$ Value/acre as determined by market value}} = \text{Dedication \$ amount required}$$

4. When a combination of land and cash-in-lieu for land is requested by the City, the following formula shall be used:

$$\frac{\text{Total park dedication in acres required as calculated by formula}}{\text{(divided by)}} \text{ Land acreage accepted} = \text{Total acreage for dedication as cash-on-lieu}$$

$$\frac{\text{Total acreage for dedication as cash-in-lieu}}{\text{(multiplied by)}} \text{ \$ Value/acre as determined by market value} = \text{Dedication \$ amount required}$$

5. The cash-in-lieu fee shall be equivalent to the full market value of the acreage required for park land dedication. Value shall be based on the anticipated market value of the land being developed after completion of platting and construction of public improvements. The City shall determine the value for each approved cash-in-lieu project. If the fee is disputed, the applicant shall submit a proposal for the cash-in-lieu fee and supply the information necessary for the City to evaluate the adequacy of the proposal. Such submittal shall include at least one (1) appraisal of similar property within the development being reviewed, paid for the developer, by a qualified appraiser approved by the City. The Parks and Recreation Department shall recommend, to the Building Division, a final cash-in-lieu amount to be collected by the City.

6. The cash-in-lieu fee for single-family dwellings and duplexes will be prorated on a per unit basis at the time of final platting, final plan review or any subsequent replats, whichever indicates the greater proposed land use and final number of dwelling units to be constructed, and fees will be conveyed to the City prior to the issuance of any building permits.

7. The cash-in-lieu fee for multi-family housing will be prorated on a per unit basis at the time of the issuance of building permits, which indicates the final number of dwelling units to be constructed, and will be conveyed to the City at the time of issuance of each building permit within the development.

8. Cash-in-lieu fee collected is intended to be used to benefit the residents within the service area of the type of park for which the fees were collected (i.e., neighborhood park – one-half-mile radius; community park – two-mile radius). The City reserves the right to adjust the cash-in-lieu requirement between neighborhood and community park categories as deemed necessary to meet specific needs. (Ord. 370-06; Ord. 111-01; Ord. 045-00)

16.42.040 Disposal of land.

Disposing of park lands obtained through these dedication requirements shall be pursuant to requirements of state law and/or City Charter. (Ord. 370-06; Ord. 111-01; Ord. 045-00)

16.42.050 Variations.

Credit towards park land dedication requirements may be considered for the following and as determined by the Parks and Recreation Department, the Planning Division, the Planning and Zoning Commission and the City Council:

A. Consideration may be given for meeting a portion of park land dedication requirements through the provision of specialized recreation facilities, provided that such facilities:

1. Are, and will remain, available to the general public;
2. Will meet a demonstrated public need; and
3. Replace or supplement facilities that would generally be provided by the City.

B. Consideration may be given for meeting a portion of park land dedication requirements through dedication or purchase and subsequent dedication of off-site land (land not contiguous to the development), provided that such land:

1. Will meet a demonstrated public need; and
2. Meets the selection criteria for a neighborhood park, community park or trail as provided in Section 16.42.060 below.

C. Consideration may be given for meeting a portion of park land dedication requirements through the provision of private open land if such land is restricted for park, recreation or open space purposes by conservation easement or restricted deed, provided that such land:

1. Will meet a demonstrated public need; and
2. Meets the selection criteria for a neighborhood park community park, trail or open land as provided in Section 16.42.060 below.

D. Consideration may be given for meeting a portion of park land dedication requirements through the provision of park and recreation facilities by developers, special districts and homeowners' associations provided that such amenities:

1. Will meet a demonstrated public need;
2. Are, and will remain, available to the general public; and
3. Meet the selection criteria for a neighborhood park, community park or trail as provided in Section 16.42.060 below. (Ord. 370-06; Ord. 111-01; Ord. 045-00)

16.42.060 Selection criteria.

A. Community parks. Recommended guidelines for sizes of community parks are listed in the City of Evans Parks, Trails and Recreation Master Plan. Land may be considered for acceptance for community park land dedication requirements if all of the following criteria are met:

1. Community parks shall have a two-mile service area radius and are a minimum of twenty-five (25) contiguous acres in size;

2. Sufficient flat terrain is available to provide for the development of active recreation areas as deemed necessary to meet the needs of the respective service area;

3. Land will not be considered for community park land dedication if it is an exclusive utility or other easement, public street right-of-way, pedestrian walkway required under other regulations or contains topographical or hazardous obstructions that would preclude development as a community park;

4. Street frontage or permanent access to the park site, at two (2) or more points, with a minimum clear distance of three hundred (300) continuous linear feet each shall be provided for both vehicles and nonmotorized users;

5. Only the upper one-fourth of detention areas, with maximum side slopes or berms of 6:1, adjacent to, or within, the park site may be applied toward the minimum acreage requirement;

6. Fifty percent (50%) of oil wellhead and tank battery setback areas may be applied toward the minimum acreage requirement with the placement of the oil structures at the edge of any dedicated property affected. In the case of tank batteries, however, an additional three (3) acres, or a minimum of a total of twenty-three (23) contiguous acres, is necessary for park land dedication;

7. Areas to be dedicated shall offer natural and scenic quality and, ideally, can support both active and passive recreational activities for City residents; and

8. Areas containing lakes, ponds or reservoirs may be considered, provided that such areas do not exceed fifty percent (50%) of the total dedication requirement and the area is contiguous to other land suitable for public park development.

B. Neighborhood parks. Recommended guidelines for sizes of neighborhood parks are listed in the City of Evans Parks, Trails and Recreation Master Plan. Land may be considered for acceptance for neighborhood park land dedication requirements if all of the following criteria are met:

1. Shall be a minimum of six (6) contiguous acres in size;

2. Neighborhood parks shall have a one-half-mile service area radius, however, the service area will not extend across arterial roadways, as determined by the proposed development and City of Evans Transportation Plan, as amended;

3. Sufficient flat terrain is available to provide for development of active recreation areas as deemed necessary to meet the needs of the respective service area;

4. Land will not be considered for local park land dedication if it is an exclusive utility or other easement, public street right-of-way, pedestrian walkway required under other regulations or contains topographical or hazardous obstructions that would preclude development as a neighborhood park;

5. Detention or retention areas will not be considered as suitable neighborhood park land and may not be applied to the minimum park acreage requirement, however; detention or retention facilities may be considered as adjacent and additional public lands to the dedicated park land providing that any side slopes or berms do not exceed a maximum 4:1 slope;

6. Fifty percent (50%) of oil wellhead and tank battery setback areas may be applied toward the minimum acreage requirement with the placement of the oil structures at the edge of any dedicated property affected; in the case of tank batteries, however, an additional three (3) acres, or a minimum of a total of seven (7) contiguous acres, is necessary for park land dedication; and

7. Street frontage or permanent access to the park site, at two (2) or more points, with a minimum clear distance of one hundred fifty (150) continuous linear feet each shall be provided for both vehicles and nonmotorized users.

A neighborhood park site, when possible, should be considered for co-locating with an elementary and/or middle school site in order to benefit from shared facilities such as parking lots, access roads, play fields and other facilities, thereby reducing the overall acreage requirement by a factor equal to those shared facilities. Any such consideration must be approved by all parties involved, including the City of Evans, Weld County School District 6, Weld County and/or any others.

C. Mini-parks. Recommended guidelines for sizes of mini-parks are listed in the City of Evans Parks, Trails and Recreation Master Plan. Land may be considered for a mini-park if all of the following criteria are met:

1. Mini-parks shall be accessible to all residents living within a one-quarter-mile radius;
2. Mini-parks shall only be constructed in large lot subdivisions (2.5 acres per unit or larger) and in developed areas of town that are currently underserved, where no sites meeting the six-acre minimum size for a neighborhood park are available;
3. Land will not be considered for a mini-park if it is an exclusive utility or other easement, public street right-of-way, pedestrian walkway required under other regulations or contains topographical or hazardous obstructions that would preclude development as a mini-park; and
4. Street frontage or permanent access to the park site, at two (2) or more points, with a minimum clear distance of seventy-five (75) linear feet each shall be provided for both vehicles and nonmotorized users.

D. Trails. Partial credit may be given for trails toward the park and dedication requirements as determined by the Parks and Recreation Department, the Parks and Recreation Commission and the City Council. Provision of trails is considered a normal element of an appropriately planned development. The following are considerations for design criteria for trails:

1. Alignment provides linkages for the community to local parks, schools and other activity areas;
2. Alignment is identified in the City's Trails Master Plan or provides linkages for the community to regional parks, trails or open lands as specified in the City of Evans Parks, Trails and Recreation Master Plan;
3. Trails shall be designed to provide for easy, safe and secure usage and allow for sufficient easement or right-of-way to accommodate multiple uses; and
4. Land should not be considered for trail dedication acceptance if it is an exclusive utility or other easement, public street right-of-way, pedestrian walkway required under other regulations or

contains topographical or hazardous obstructions that would preclude development of a trail. (Ord. 370-06; Ord. 111-01; Ord. 045-00)